IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1978

RECEIVED
JUL 20 1979
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 79-5189

JAY CLAIR COLVER, Appellant,

v.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, Appellee.

ON APPEAL FROM THE SUPREME COURT OF CALIFORNIA

JURISDICTIONAL STATEMENT

Jay Clair Colver
140 Parkmead Court
Walnut Creek, CA 94595
415-934-1353

Pro Se

July 17, 1979

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Cases:

Brown v. Upfold
123NYS 2d 342, 345, 348, 402 Misc. 416.....5

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No._____

JAY CLAIR COLVER, Appellant,

v.

COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FIRST APPELLATE DISTRICT, Appellee.

ON APPEAL FROM THE SUPREME COURT OF CALIFORNIA

JURISDICTIONAL STATEMENT

Jay Clair Colver, the appellant, appeals from the final judgement of the Supreme Court of California, dated April 19, 1979, denying a hearing on the question of appellee's denial of court appointed counsel as required by California Penal Code, Title 9, para. 1240 and the United States Constitution, Amendment Six.

JURISDICTION

The judgment of the Supreme Court of California, denying a hearing on appeal of denial of court appointed counsel was entered on April 19, 1979.

A notice of appeal to this Court was duly filed in the Court of Appeal of the State of California on July 11, 1979.

This appeal is being docketed in this Court within 90 days from the denial of hearing. The jurisdiction of this Court is invoked under 28 USC para 1257 (2).

QUESTIONS PRESENTED

(1.) Whether the "indigency" interpretation of the California Penal Code Title 9, para. 1240 is violative of the right to assistance of counsel clause of the Sixth Amendment to the United States Constitution, since it denies counsel to a whole class of citizens who are not completely destitute but are also not able to afford counsel.

(2.) Whether denial of court appointed counsel is violative of the Due Process clause of the Fifth and Fourteenth Amendments to the Constitution of the United States when it denies any counsel to appellant and all others in his economic class who have no other means of retaining counsel.

(3.) Whether denial of court appointed counsel on the basis of indigency is violative of the Fourteenth Amendment to the Constitution of the United States which provides that;

> "...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;..."

by interpreting the law and the Constitution to mean that a person must be

absolutely destitute of worldly goods in order to qualify for court appointed counsel.

(4.) Whether the "indigency" interpretation of the California Penal Code Title 9, para. 1240 is violative of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States because it systematically and arbitrarily denies the assistance of counsel to a large and growing class of United States citizens.

(5.) Any other denial of federal right whether or not capable of being brought here by appeal.

CONSTITUTIONAL PROVISIONS AND RULES

Fifth Amendment, United States Constitution:

> "No person shall be held to answer for a capital, or otherwise infamous crime...without due process of law..."

Sixth Amendment, United States Constitution:

> "In all criminal prosecutions, the accused...shall have the assistance of counsel for his defense."

Fourteenth Amendment, United States Constitution, Section 1:

> "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States..."

Fourteenth Amendment, United States Constitution, Section 1:

> "...nor shall any State deprive any person of life, liberty, or property, without due process of law..."

Fourteenth Amendment, United States Constitution, Section 1:

> "No State shall...deny to any person within its jurisdiction the equal protection of the laws."

California Penal Code, Title 9, para. 1240 (a):

> "When...a person...is unable to afford the services of counsel, the court shall appoint the State Public Defender to represent the person..."

STATEMENT OF THE CASE

The appellant, Jay Clair Colver, is in the process of appealing a criminal conviction to the California Court of Appeal, First Appellate District. On February 6, 1979, the clerk of the court notified the appellant that he had received my Notice of Appeal and that;

> "A defendant in a proceeding such as yours has a right to be represented on appeal by an attorney, even though he is without money or any other means of obtaining an attorney of his own selection..."

and that;

> "...If you are indigent and thereforeunable to retain an attorney of your own selection, you may submit to this court a request that an attorney be appointed to represent you..."

The clerk enclosed an application for appointment of counsel and financial affidavit which the appellant completed and submitted. (See Exhibit A)

On February 20, 1979 my application was denied,

> "...on the ground of insuffieient showing of indigency."

(See Exhibit B)

On February 26, 1979 appellant submitted further explanation of some points on the original affidavit showing that appellant could not in fact afford the retention of counsel. (See Exhibit C)

On February 27, 1979, the very next day, the court replied that there was still insufficient showing of indigency. (See Exhibit D)

On March 13, 1979, appellant filed a formal Petition for Reconsideration of Denial of Court Appointed Counsel. (See Exhibit E)

On March 19, 1979 that petition was denied without comment. (See Exhibit F)

On April 2, 1979, appellant filed a Petition for Hearing with the California State Supreme Court. (See Exhibit G)

On April 19, 1979, appellant received a postcard stamped, "Hearing Denied" without comment. (See Exhibit H)

On June 1, 1979, after studying what was necessary to appeal to the United States Supreme Court, the appellant called the clerk of the California State Supreme Court by telephone and asked if there was any further recourse or if this was the final order and he informed appellant that this order denying a hearing was final and that there was no further recourse.

THE QUESTION IS SUBSTANTIAL

Apparantly a large class of citizens are being systematically and arbitrarily denied due process and equal protection of the law, and their Constitutional right to be represented by counsel for their defense. The courts are denying them court appointed counsel unless they are;

> "...destitute of property or means of comfortable subsistance; needy; poor; in want; necessitous..."
> (Brown v. Upfold 123 NYS 2d 342, 345, 348, 204 Misc. 416)

Today there is a widening gap between "being able to afford an attorney" and being destitute or indigent. The instant case is a case in point. The appellant has contacted several attorneys capable of representing him in an appeal of this nature and they each want at least $5,000.00 cash in advance. The appellant is not destitute of worldly goods but he does not have $5,000.00

in either cash or other assets which could be converted into cash. Even if the appellant sold his home he could not raise $5,000.00 because the home was just refinanced to the fullest extent to pay his trial attorney. Where are the appellant and others in a like circumstance to obtain our constitutionally guaranteed representation?

The Legislative and Executive branches of the federal government have recognized the reality of the inflated dollar and have raised the definition of "poverty" to include anyone making up to $6,191.00 a year. (1977, Bureau of Sensus) The Judicial branch of government should also recognize the fiscal realities and adjust its definition of who can and cannot afford to retain counsel.

Justice Black (in Gideon) described those persons for whom counsel was to be appointed, as "...too poor to hire a lawyer.". When the price of counsel is $5,000.00 or more, as it is in appellant's case, "too poor to hire a lawyer." means unable to raise $5,000.00, not "indigent".

Denying a large and (due to inflation) growing class of citizens the right to be represented by counsel for their defense is a substantial denial of due process, violative of the Fifth and Fourteenth Amendments to the United States Constitution.

By excluding large numbers of citizens from the right to be represented by counsel the courts are violative of the Equal Protection clause of the Fourteenth Amendment to the United States Constitution. Equal protection under the law being one of the fundamental principles of our Constitutional Republic, this violation bears serious concequences and merits speedy correction.

There is also the substantial violation of the Fourteenth Amendment which states that;

> "...No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States..."

California Penal Code, Title 9, para. 1240 was passed to impliment the right to counsel specified in the Sixth Amendment to the United States Constitution and its wording appears to be in harmony with the intent of the Amendment.

> "When...he is unable to afford the services of counsel, the court shall appoint the State Public Defender to represent the person..."

It is the court's interpretation or mode of enforcement or implimentation of the code which violates the constitution. The Constitution says that the defendant "shall enjoy the right...to have the assistance of counsel for his defense." and the State Penal Code says counsel shall be appointed "when... he is unable to afford..." his own counsel and Justice Black says counsel should be appointed when he is "too poor to hire a lawyer" but the California courts and others go way beyond mere inability to pay and insist that the defendant be "indigent".

Indigence describes the total economic state of the individual. He must be; broke, poor, destitute of worldly goods, etc. On the other hand, "unable to afford" or "too poor to hire" are merely definitions of the disparity between a defendant's economic status and the prevailing price of legal counsel.

In the Appeal Court's letter to the appellant they stated;

"If you are indigent and therefore unable to retain an attorney..." Appellant is neither, but they give me only two choices. I am not indigent by

current definition, nor can I afford a lawyer. And because the appellant does not fit in either of their catagories, my constitutional rights to (a) due process of law, (b) equal protection of the law, and (c) representation by counsel for my defense are being violated.

CONCLUSION

For these reasons, this court should note probable jurisdiction of this appeal.

Respectfully Submitted

Jay Clair Colver

JAY CLAIR COLVER
140 Parkmead Court
Walnut Creek, CA 94595
415-934-1353

Pro Se

COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE FIRST APPELLATE DISTRICT
DIVISION THREE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

Jay Clair Colver,

Defendant and Appellant.

1/Crim. 19261

APPLICATION FOR APPOINTMENT OF COUNSEL

I, JAY CLAIR COLVER, defendant and appellant in the above entitled case, have appealed from an order or judgment of the Superior Court of Contra Costa County, Case No. 21361. I request the appointment of an attorney to represent me on said appeal.

In support of this request, I declare that I have no means of retaining an attorney to represent me; my present income and assets are:

INCOME	Husb.	Wife
Gross monthly income, including welfare, unemployment, etc...	$900-	$900-
Less deductions: Expenses	350.00	12.50
Income taxes		57.29
Social Security	50.00	77.60
Unemployment insurance		
Medical insurance		
Union dues, etc		
Retirement fund		
Total deductions	$400	$147.39
Net monthly income	$500	$752.61

Occupation. Janitor / Secretary

ASSETS	Husb.	Wife
Savings accounts	$ —	$ —
Checking accounts	30	200
Credit union	—	—
Bonds and stocks	—	—
Home	24,000	
Other real estate	—	—
Furniture	2,000	
Auto or truck	1,900	
(Make and year)		
Other vehicles	—	—
Other....Investment	—	10,000
Total assets	$17,030	$24000

Employer: Self/Norm Hansen

My monthly expenses are:

Rent or mortgage	$557.28
Food	225.00
Clothes	50.00
Transportation	222.00
Utilities	161.29
Medical, dental	60.60
Child care	
Other....car repairs	70.00

Other: $ — $ —

Installment payments:

Creditor	For	Monthly Payment	Balance
Sears		$ 25.00	$233.75
C.H. Bank		85.00	1238.82
MC		56.00	1408.93
BAC		75.00	1619.79
Total monthly expenses			$1557.17

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on Feb 12, 1979 at Walnut Creek, California.

Jay C. Colver
Signature of declarant

Jay C. Colver
Type or print name

140 Parkmead Ct. Walnut Creek CA 94595
Address of declarant

EXHIBIT A

OFFICE OF THE CLERK

Court of Appeal

State of California

FIRST APPELLATE DISTRICT

CLIFFORD C. PORTER, CLERK

SAN FRANCISCO 94102
4154 STATE BUILDING
CIVIC CENTER
557-1896

DEPUTIES

RICHARD J. EYMAN, CHIEF DEPUTY
ROY F. LIPPI
LEO A. WEISSMANN
WALTER McADAM
BETTY KAVANAGH
R. D. BARROW
D. J. GULLIFORD

ELIZABETH MAROTA, SECRETARY

February 20, 1979

Mr. Jay C. Clover
140 Parkmead Court
Walnut Creek, California 94595

Re: 1/Crim. 19261, People v. Clover

Dear Sir:

The court has requested that you be advised that your application for appointment of counsel has been denied on the ground of insufficient showing of indigency.

Very truly yours,

Clifford C. Porter, Clerk

By Richard J. Eyman
Chief Deputy

RJE:khm

EXHIBIT B

Office of the Clerk
Court of Appeal
State of California
First Appellate District
4154 State Building
Civic Center
San Francisco, CA 94102

26 February, 1979

Re: 1/Crim. 19261, People V. Colver

Dear Sir:

Since the court found insufficient showing of indigency concerning my application for appointed council, it seems that the form you sent me needs some explanation.

There is no place on the form for true net income. The net figure is really gross. True net would be: Income: $1252.61
Expenses: $1587.08
($334.47)

As you can see we are running a monthly deficit which we try to solve with occasional odd jobs, or gifts from family.

We had to refinance the house to pay for the trial lawyer. The $10,000 investment can't be touched because it is paying the increased mortgage payment necessitated by the refinancing.

I have no savings and no more borrowing power. Where am I supposed to get the $5,000 advance payment I have been quoted for the appeal? Even if I tried to sell the house, everything would go to pay off the mortgage. This is not a difference of opinion, it is a matter of fact.

I HAVE NO FINANCIAL RESOURSES! Kindly reconsider my application for appointed council.

Sincerely,

Jay C. Colver
Pro Se

EXHIBIT C

OFFICE OF THE CLERK

Court of Appeal

State of California

FIRST APPELLATE DISTRICT

CLIFFORD C. PORTER, CLERK

SAN FRANCISCO 94102
4154 STATE BUILDING
CIVIC CENTER
557-1896

DEPUTIES

RICHARD J. EYMAN, CHIEF DEPUTY
ROY F. LIPPI
LEO A. WEISSMANN
WALTER McADAM
BETTY KAVANAGH
R. D. BARROW
D. J. GULLIFORD

ELIZABETH MAROTA, SECRETARY

February 27, 1979

RECEIVED FEB 2 8 1979

Mr. Jay C. Colver
140 Parkmead Court
Walnut Creek, California 94596

Re: 1/Crim. 19261, People v. Colver

Dear Sir:

In reply to your request dated February 26, 1979, please be advised that the court has requested that you be advised that they are still of the opinion that there has been an insufficient showing of indigency upon which to grant your request for court-appointed counsel.

Very truly yours,

Clifford C. Porter, Clerk

By Richard J. Eyman
Chief Deputy

RJE:khm

EXHIBIT D

COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

JAY CLAIR COLVER Petitioner vs. COURT OF APPEAL OF THE STATE OF CALIFORNIA FIRST APPELLATE DISTRICT Respondent PEOPLE OF THE STATE OF CALIFORNIA Real Party in Interest	1/CRIMINAL NO.: 19261

PETITION FOR RECONSIDERATION

OF DENIAL OF COURT APPOINTED COUNCIL

JAY CLAIR COLVER
140 Parkmead Court
Walnut Creek, CA 94595
(415) 934-1353

Pro Se

EXHIBIT E

IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

JAY CLAIR COLVER Petitioner, vs. COURT OF APPEAL OF THE STATE OF CALIFORNIA FIRST APPELLATE DISTRICT Respondent, PEOPLE OF THE STATE OF CALIFORNIA Real party in interest	1/CRIMINAL NO. : 19261 PETITION FOR RECONSIDERATION OF DENIAL OF COURT APPOINTED COUNCIL

TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE FIRST APPELLATE DISTRICT OF THE STATE OF CALIFORNIA:

Petitioner alleges:

1. Petitioner is JAY CLAIR COLVER

2. Respondent is COURT OF APPEAL OF THE STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT.

3. Real party in interest is PEOPLE OF THE STATE OF CALIFORNIA.

4. On February 12, 1979 Petitioner made application to Respondent for appointment of council. (See exhibit A)

5. On February 20, 1979 Respondent denied my application on grounds of insufficient showing of indigency. (See exhibit B)

6. On February 26, 1979 Petitioner sent further explanation of his financial plight to respondent , indicating total inability to retain council. (See exhibit C)

7. On February 27, 1979 Respondent replied that there still was not a sufficient showing of indigency, and again denied my application. (See exhibit D)

8. The code section which gives the legislature's requirements for court appointed council (CC para. 1240) says nothing about indigency. In fact, neither the word indigency nor any form of it appears in the Criminal Code. The Code requires that the applicant be "unable to afford the services of council".

9. According to the dictionary, indigence means: "needy. Stronger than poverty, indigence implies an absence of the necessities of life." (Websters New Twentieth Century Dictionary Unabridged 2nd Edition) In light of that , and the lack of a definition of indigence in the code, it seems to me that the Code does not contimplate that exercising one's constitutional right to council should create indigency, nor does it say that a defendant must dispose of every possession and be turned out into the street without the necessities of life in order to fall within the purview of the statute. If the court's interpretation of the statute is that a person must be penniless before the state can appoint council, I believe that the court has mis-interpreted the legislative intent. Again, the legislature merely requires that a defendant be "unable to afford the services of council".

10. As stated in Exhibit C, petitioner is unable to afford the services of council to pursue the appeal process guaranteed him by law.

11. Denial of constitutional rights is forbidden by Title 18 para. 241 USC. The Code also provides civil remedies for such denial. Title 42 para 1983 USC

states;

> "Every person who, under color of any statute, ordinance, regulation, custom,or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdicion thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws , shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

12. Respondent has been provided with sufficient evidence of inability to afford the services of council as required by the Code (para. 1240) and should appoint council for Petitioner, as requested.

WHEREFORE, Petitioner prays:

1. That the court reconsider its denial of court appointed council.

2. That the court appoint appropriate council so that Petitioner may pursue the appeal process being represented by council as guaranteed by the Constitution of the United States.

Dated: March 13, 1979

Jay Clair Colver
Pro Se

VERIFICATION

I, JAY CLAIR COLVER, am the petitioner in this proceeding. I have read the forgoing petition and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and, as to those matters, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 13, 1979 at Walnut Creek, California.

Jay Clair Colver
Petitioner and defendant
Pro Se

PROOF OF SERVICE BY MAIL
CCP 1013a, 2015.5

I declare that I am a resident of the County of Contra Costa, California. That I am over the age of eighteen years and not a party to the within entitled cause; my address is 140 Parkmead Court, Walnut Creek, CA 94595. On March 13, 1979, I served the attached Petition by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland California, addressed to each of the following:

Court of Appeal
First Appellate District
350 McAllister Street
San Francisco, CA 94102

Attorney General of California
350 McAllister Street
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed March 13, 1979, at Oakland, California.

Carol J. Colver

Court of Appeal of the State of California

IN AND FOR THE

First Appellate District

Division THREE

~~People of the State of California,~~
Plaintiff and Respondent,
vs.
~~Jay Clair Colver,~~
Defendant and Appellant.

1/Crim. No. 19261

Superior Court No._____

BY THE COURT:

The petition for reconsideration of denial of court appointed counsel is denied.

RECEIVED MAR 2 0 1979

EXHIBIT F

Dated MAY 1979

WHITE, P. J.

P.J.

COPY

39709-111 2-78 10M T OSP

No._____

Supreme Court Copy

SUPREME COURT

OF

THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff and Respondent,

vs.

JAY CLAIR COLVER,
Defendant and Appellant.

1/CRIMINAL No.: 19261

SUPREME COURT
FILED
APR 2 1979
G. E. BISHEL, Clerk

Deputy

PETITION FOR HEARING

JAY CLAIR COLVER
140 Parkmead Court
Walnut Creek, CA 94595
(415) 945-1353

Pro Se

EXHIBIT G

SUPREME COURT

OF

THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent,	
vs.	1/CRIMINAL No.: 19261
JAY CLAIR COLVER, Defendant and Appellant.	

PETITION FOR HEARING

To the Honorable ROSE ELIZABETH BIRD, Chief Justice, and to the Honorable Associate Justices of the Supreme Court of the State of California:

JAY CLAIR COLVER, Petitioner, hereby petitions for a hearing to consider the decision of the Court of Appeal of the State of California, First Appellate District, Division Three, filed in this action on March 19, 1979, denying Petitioner's prayer for reconsideration of its denial of court appointed council. Acopy of the decision of the Court of Appeal, showing the date of its filing is set forth herein as Appendix "1".

Hearing by this Court is necessary on the following points:

POINT I

That the decision of the Court of Appeal is not in line with the points and authorities cited.

POINT II

Additional points and authorities to those contained in the "Petition for Reconsideration of Denial of Court Appointed Counsel" as set forth herein as Appendix "2".

1. Penal Code § 859 provides that: "If the defendant desires and is unable to employ counsel, the court (6) shall assign counsel to defend him." (Emphasis in original)

2. 3 Cal Rptr 365 states that; "All persons accused of crime in any court in the State have a right to counsel, and such right includes judicial appointment of counsel in cases in which accused is financially unable to employ counsel himself.....Where accused is financially unable to employ counsel himself, court has duty to secure to accused the right to counsel with all its concomitant benefits." (Emphasis mine)

3. 38 Cal Rptr 294 states that "Various phrases are used to describe the persons entitled to the appointment of attorneys at the expense of the state. Sometimes they are described as "persons who are unable to employ counsel," or as "indigents," but the simple characterization made by Mr. Justice Black in the Gideon case is understandable and particularly apropos - persons "too poor to hire a lawyer." 372 US 335

4. In 13 Stanford Law Review, 522, at page 545 states; "The fact that an accused on bail has been able to continue employment following his arrest is not determinative of his ability to employ counsel, since few attorneys will accept a case on a credit basis, and generally a substantial cash payment is required." I have found this to be the case, with attorneys requiring $5,000 cash in advance to represent me in the appeal process. As explained in Exhibit C of Appendix "2" I have no financial resources sufficient to retain an attorney.

13 Stanford Law Review, (cited above) continues; "The financial circumstances of relatives or persons owing the accused a duty of support may not be considered in determining his right to appointment." In spite of this I have exhausted relatives and friends as sounces of funds.

CONCLUSION

WHEREFORE, for the reasons herein advanced, and on the authorities, Petitioner, JAY CLAIR COLVER, respectfully urges that a hearing be granted and that this court direct the Court of Appeal of the State of California, First Appellate District appoint appropriate counsel for the Petitioner's pursuit of the appeal process.

Dated March 27, 1979.

Respectfully submitted,

Jay Clair Colver
140 Parkmead Court
Walnut Creek, CA 94595
(415) 934-1353

Pro Se

PROOF OF SERVICE BY MAIL
CCP 1013a, 2015.5

I declare that I am a resident of the County of Contra Costa, California. I am over the age of eighteen years and not a party to the within entitled cause; my address is 140 Parkmead Court, Walnut Creek, California. On March 27, 1979, I served the attached Petition for Hearing by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California, addressed to each of the following:

Court of Appeal
First Appellate District
350 McAllister Street
San Francisco, CA 94553

Attorney General of California
350 McAllister Street
San Francisco, CA 94553

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed March 27, 1979 at Walnut Creek, California.

Carol J. Colver
Carol J. Colver

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

APR 10 [illegible]

I have this day filed Order

[illegible]

In re: 1 Crim. *No.* 19261

People

vs.

Colver

Respectfully,

G. E. BISHEL
Clerk

[illegible]

EXHIBIT H

PROOF OF SERVICE BY MAIL

I declare that I am a resident of the County of Contra Costa, California. I am over the age of eighteen years and not a party to the within entitled cause; my address is 140 Parkmead Court, Walnut Creek, CA 94595. On July 17, 1979 I served the attached JURISDICTIONAL STATEMENT upon all parties required to be served by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed to each of the following:

Supreme Court of
the United States of America
Washington, DC 20543

Court of Appeal of California
First Appellate District
350 McAllister Street
San Francisco, CA 94553

Attorney General of California
350 McAllister Street
San Francisco, CA 94553

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on July 17, 1979 at Walnut Creek, CA.

Carol J. Colver
Carol J. Colver